

CLERK'S COPY

Supreme Court of the United States

JOHN FALCO PETITIONER

THE UNITED STATES OF AMERICA

ON WRIT OF HABEAS CORPUS TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR HABEAS CORPUS FILED MAY 21, 1942

WARRANT GRANTED JUNE 2, 1942

**IN THE UNITED STATES CIRCUIT
COURT OF APPEALS**

For the Third Circuit

No. 8233

United States of America

v.

Nick Falbo

Appellant

**Appeal from a judgment in the District Court of the
United States for the Western District
of Pennsylvania.**

APPENDIX FOR APPELLANT

**P. K. JONES,
235 Broad Bldg.,
New Kensington, Pa.**

**VICTOR F. SCHMIDT,
Pine Road,
Rossmoyné, Ohio.
Attorneys for Appellant.**

INDEX OF APPENDIX

	PAGE
Docket Entries	1 a
Plea in Abatement	3 a
Motion to Dismiss	6 a

Trial Record

Convening of Court and Appearances	8 a
--	-----

CASE FOR GOVERNMENT:

	Direct Exam. Pages	Cross Exam. Pages
Van Kirk, Mrs. Katherine	9 a	15 a
Allison, Herbert M.	20 a	22 a

CASE FOR DEFENDANT:

Falbo, Nick	23 a	33 a
Falbo, Nick (recalled)	36 a	
Galuppo, Angelo	34 a	
Oral Charge to the Jury		40 a
Statement of Defendant before Sentence		43 a
Certification of Official Reporter		49 a
Certification of Trial Judge		49 a

EXHIBITS

	PAGE
Govt's Exhibit No. 1, Registration Card	50 a
Govt's Exhibit No. 2, Selective Service Questionnaire	51 a, 52 a, 53 a, 54 a 55 a, 56 a, 57 a, 58 a
Govt's Exhibit No. 3, Order to Report	59 a, 60 a
Deft's Ex. "A", Notice of Delinquency	61 a
Deft's Ex. "B", Reply to Notice of Delinquency ..	62 a
Deft's Ex. "C", Conscientious Objector's Form	63 a, 64 a, 65 a, 66 a
Deft's Ex. "C"; Authorization Certificate	67 a
Deft's Ex. "C", Reverse Side of Authorization Certificate	68 a
Deft's Ex. "C", "My Statement"	69 a, 70 a
Deft's Ex. "D", Certificate of Ordination	71 a
Deft's Ex. "E", Letter of Appellant	72 a
Deft's Ex. "F", Affidavit of John A. Poloney	73 a
Deft's Ex. "G", List of Signators	74 a
Deft's Ex. "G", Affidavit of Galuppo	75 a
Deft's Ex. "H", Statement of De Fazio	76 a
Deft's Ex. "I", Letter of Watchtower Society ..	77 a
Deft's Ex. "J", Affidavit of Appellant	78 a, 79 a
Verdict of Jury	80 a
Judgment and Commitment	80 a

INDEX OF ADDITIONAL PORTIONS OF RECORD

	Page
Indictment	82
Plea and waiver of counsel	83
Notice of appeal to Circuit Court of Appeals	83
Assignments of error	85
Proceedings in U. S. C. C. A., Third Circuit	99
Minute entry of hearing	99
Opinion, per curiam	100
Judgment	100
Clerk's certificate	101
Stipulation as to record	102
Order allowing certiorari	103

Docket Entries

Nov.	12,	1942	True Bill.
"	12,	"	Indictment filed.
"	7,	"	Petition and order for subpoena duces tecum filed.
"	7,	"	Subpoena duces tecum issued.
"	19,	"	Petition and order for subpoena duces tecum filed.
"	19,	"	Subpoena duces tecum issued.
Dec.	1,	"	Plea in abatement filed and order of court entered overruling same.
"	1,	"	Defendant pleads not guilty.
"	1,	"	Trial opens at 2:17 P. M. before Schoonmaker, Judge.
"	1,	"	Motion to dismiss filed and order of court entered thereon denying same.
"	1,	"	Trial concluded at 3:46 P. M.
"	1,	"	Trial memo filed.
Dec.	1,	"	The jury find defendant guilty—verdict filed:
"	1,	"	The sentence of the court is that defendant be placed in the custody of the Attorney General for five years—no fine or costs. (S) counsel.
"	1,	"	Temporary commitment issued.
"	1,	"	Final Commitment issued.
"	2,	"	Temporary commitment returned executed.

" 4, " Notice of appeal to Circuit Court filed by defendant, with acceptance of service thereon.

" 28, " Final commitment returned executed.

Jan. 2, 1943. On motion of defendant-appellant, order of court entered extending time to February 10, 1943 in which to file and docket record on appeal.

Feb. 5, " Motion for extension of time for filing and docketing record on appeal filed.

" 5, " Affidavit on motion for extension of time on appeal filed.

" 5, " Order of court filed and entered extending time to March 3, 1943 in which to file and docket record on appeal.

Mar. 2, " Stipulation in re Record filed.

" 2, " Transcript of testimony filed by leave of Court.

" 2, " Assignments of Error filed.

" 2, " Designation of Contents of Record on Appeal filed.

Plea in Abatement

STATE OF PENNSYLVANIA,
COUNTY OF ALLEGHENY, ss:

Now comes NICK FALBO, the defendant in the above-entitled cause of action, and being duly sworn herewith presents his Plea in Abatement on facts extrinsic to the Indictment and record thus far in this case:

- I. The defendant says that he has been a regular minister of religion since 1931 and a "duly ordained minister" since Sept. 1, 1940 and this fact was made known to the Local Board at the time of filling out his questionnaire and also presented in his conscientious objector's affidavit. The Local Board, therefore, had no authorization to issue the order to report for work of national importance in a conscientious objectors' camp when Title 50 U. S. C. A. 305 (d) exempts from training and service (but not from registration) a regular or duly ordained minister of religion, which the defendant asserted himself to be at all times in the matters pertaining to this case.
- II. The Court lacks jurisdiction by reason of the fact that the defendant had valid reasons for having failed to perform the duty required of him under the Selective Service System, to-wit:
 - (a) The Local Board in its administration failed to take necessary steps and violated Section 623.1 (c) of the Selective Service Regulations whereby the Defendant was wrongly classified and ordered to report,—and any judgment of this Court predicated upon such

unwarranted jurisdiction and whereby the Defendant would be deprived of his liberty is contrary to the First, Fifth, and Thirteenth Amendments to the United States Constitution.

(b) The jurisdictional basis of the present procedure as the evidence is predicated upon the acts and procedure of the Local Board which acted unfairly, arbitrarily and discriminatorily and capriciously in violation of the rights of and to the prejudice of the Defendant, contrary to Section 623.1 (c) of the Selective Service Regulations.

(c) The jurisdiction of this Court is based upon the procedure taken by the Local Board which has violated and omitted material steps prior to the order to report and contrary to the rules and regulations of the Selective Service System, and particularly Section 601.5 thereof.

The Defendant prays that the indictment be quashed.

The Defendant reserves exception to any adverse ruling hereon.

NICK FALBO.

STATE OF PENNSYLVANIA,
COUNTY OF ALLEGHENY, ss:

The Defendant being duly sworn states that the above facts are true to his personal knowledge except those based upon information and belief and as to them he has reason to believe they are true.

NICK FALBO

Sworn and subscribed before me this 1st day of December, 1942.

(SEAL)

I. C. STAUER,
U. S. Deputy Clerk.

Authorities

Application of Greenberg, 39 Fed. Supp. 13.

St. Joseph Stock Yards Co., v. U. S., 298 U. S. 38, at 49 to 54.

Interstate Commerce Comm., v. Louisville & Nashville Ry. Co., 227 U. S. 88, 91.

U. S. A. v. Raise (1942), U. S. Circuit Court of Appeals for the Sixth Circuit.

Ver Mehren v. Sermyer, Commandant, etc., 36 Fed. 2d 976.

Ex parte Green, 123 Fed. 2d 862.

U. S. v. Nevin, 199 Fed. 831.

U. S. v. Greene, 113 Fed. 683.

U. S. v. Hammond, 26 Fed. Cases, No. 15,294.

Now December 1, 1942, Plea overruled.

Per Curiam

F. P. SCHOONMAKER,
Judge.

Motion To Dismiss

Comes now the defendant in the above entitled case and moves the Court for an instructed verdict to dismiss the defendant for the following reasons:

- (1) The trial court does not have jurisdiction of the subject matter involved in this case because the order for induction by the Local Board under the Selective Service System was irregular and without authority in the instant case since regular or duly ordained ministers are exempt from induction according to Title 50 U. S. C. A. 305 (d) and such action of said Local Board was unfair and arbitrary as disclosed upon the record,—all of which is contrary to the First, Fifth, and Thirteenth Amendments to the United States Constitution.
- (2) The evidence is insufficient to constitute a crime under the laws of the United States, because the uncontradicted evidence shows that the defendant at all times since his registration under the Selective Service Act to the present time has been a regular and a duly ordained minister of religion and the Local Board was unfair, arbitrary and discriminatory in the administration of the law contrary to Section 623.1 (c) of the Selective Service Regulations.
- (3) The defendant is protected from the charge named in the indictment by specific exemptions stated in the law under which he is held, namely: Title 50, U. S. C. A. 305 (d) exempts from training and service (but not from registration) regular or

duly ordained minister of religion. Furthermore, the application of the Selective Service Act according to Section 601.5 of the Selective Service Regulations, protects the defendant from performing the duty charged in the indictment because he had a valid reason for having failed to perform said duty under the regulations.

The defendant reserves exception to any adverse ruling hereon.

(Signed) VICTOR F. SCHMIDT,
Attorney for Defendant.

Address: Pine Road,
Rossmoyne, Ohio

December 1, 1942, Motion denied

Per Curiam

F. P. Schoonmaker, Judge

TRIAL RECORD

And now, Tuesday, December 1, 1942, at 2:10 o'clock P. M., the above entitled cause came on for trial before Hon. F. P. Schoonmaker, Judge, and a Jury, at Pittsburgh, Pennsylvania.

COUNSEL PRESENT:

For the Government: George Mashank, Esq.,
Assistant U. S. Attorney.

For the Defendant: Victor F. Schmidt, Esq.,
(Rossmoynne, Ohio).

Transcript of Official Notes of Testimony

Reported by
Harriet Cole Thomas,
Official Reporter.

MR. SCHMIDT: The defendant at this time will present a plea in abatement. (Written plea presented).

THE COURT: Have you seen this plea, Mr. Mashank?

MR. MASHANK: Yes, I have a copy of it, Your Honor. And I feel it ought to be dismissed, for the reason the facts set forth here are not properly raised. It is not a matter for this Court to determine. There is a procedure provided for the remedy he is asking for, under that case in the Circuit Court of Appeals.

THE COURT: Do you admit the facts set out in this plea in abatement?

MR. MASHANK: No, Your Honor, we do not admit the facts.

THE COURT: The only fact that I see is his assertion that he is a regular minister of religion.

MR. MASHANK: And that is the fact that we do not admit. We say that matter has already been passed upon by the proper tribunal.

THE COURT: It is our view that the subject matter raised in this plea of abatement is a matter that should be raised before the regularly established Draft Board, and that the Board has the decision of whether or not this man is to be listed as he claims he should be. We therefore deny this plea in abatement.

MR. SCHMIDT: The defendant respectfully excepts to the ruling of the Court.

MR. SCHMIDT: At this time the defendant enters his plea of not guilty, as subscribed to the indictment.

(Jury sworn).

(Mr. Mashank opens to the jury for the Government).

KATHERINE VAN KIRK, a witness produced on behalf of the Government, having been duly sworn, testified as follows:

DIRECT EXAMINATION

MR. MASHANK:

Q. Will you state your full name, please?

A. My name is Mrs. Katherine K. Van Kirk.

Q. Where do you live, Mrs. Van Kirk?

A. In West Newton, Pennsylvania.

Q. Are you employed?

A. I am employed.

Q. In what capacity, and by whom?

A. As a clerk for the Federal Government Selective Service Board, Draft Board 11, Westmoreland County, Pennsylvania.

Q. And, as such clerk, do you have custody of all records of the Board pertaining to registrants that have been registered and are under the jurisdiction of Local Board No. 11?

A. That is right.

Q. You are familiar with all the documents and records, and so forth?

A. Yes, sir.

Q. Now, do you have the file of Nick Falbo, the defendant in this case, with you?

A. I do.

Q. State whether or not in that file there is a questionnaire of the defendant's?

A. There is.

Q. Will you produce it?

A. (Witness hands papers to counsel).

(Three papers marked respectively Government Exhibits Nos. 1, 2 and 3).

Q. I show you Government Exhibit No. 1. Will you please identify it and tell us what it is?

A. This is the Board's registration card which was filled out by Nick Falbo, defendant, when he registered at our Board.

Q. And when did he register?

A. October 16, 1940.

Q. And that is a record of your Board?

A. That is right.

MR. MASHANK: I offer in evidence Government Exhibit No. 1.

MR. SCHMIDT: No objection.

Q. I show you Government Exhibit No. 2. Will you tell us what that is?

A. This is the Selective Service questionnaire of Nick Falbo, defendant, that was issued August 13, 1941, and presented to him to give the data concerning himself requested of each registrant.

Q. And that paper was executed by the defendant and returned to your Board?

A. On the 23d of August, 1941.

Q. And that is a record of your Board?

A. That is right.

Q. And after that questionnaire was returned to your Board, what action with reference to classification was taken by the Local Board?

A. This registrant was classified in Tentative 1 on August 25, 1941—

THE COURT:

Q. What date is that?

A. September,—no; it is "8"—September 25, 1941.

MR. MASHANK:

Q. He was placed in Tentative Class 1?

A. That is right.

Q. And was he later placed in a final classification?

A. He appealed the Tentative 1 on January 26, 1942, before he was placed in 1-A.

- Q. And what action, if any, was taken by the Appeal Board, do you know?
- A. The Appeal Board classified him in 1-A by a vote of 4 to nothing.
- Q. And what was the next step that was taken by the defendant?
- A. He again submitted evidence, and it was again returned to the Appeal Board—
- Q. He submitted evidence to whom?
- A. To the Appeal Board, and asked for a return of his folder.
- Q. And based on that additional evidence, was he classified?
- A. He was classified on June 17, 1942, on Class 4, subdivision "E", by the Appeal Board by a vote of 4 to nothing.
- Q. And what is the Classification 4-E? For whom is that provided?
- A. For those registrants who are conscientious objectors and who do not see fit to go to war or to battle, as an objector.
- Q. So the defendant in this case, Nick Falbo, was placed in classification 4-E, conscientious objector?
- A. That is right.
- Q. And what, if anything, was done by the Board or representative of the Board after that classification was assigned to the defendant?
- A. Well, of course, the Local Board concurred in the decision of the Appeal Board and classified him in 4-E, as the Appeal Board had done, and so notified the State Department.

Q. The State Selective Service Director?

A. That is right.

Q. Now, after you notified the Director of Selective Service—that is, the State Director—did the State Director send you any document or paper of directions with reference to the defendant?

A. He sent us an order as to the place to which this boy was to be sent for work of national importance.

Q. And did you notify the defendant of that fact?

A. We did.

Q. Did you send him some kind of a notice or paper?

A. We sent him DSS Form 50.

Q. Show you Government Exhibit No. 3, and ask you if that is a copy of the notice that you sent to the defendant.

A. It is.

Q. You say the original of that was sent to the defendant?

A. That is right.

MR. MASHANK: I offer in evidence Government Exhibit No. 3. I believe I offered the questionnaire, Government Exhibit No. 2, in evidence. If not, I make the offer at this time.

Q. Will you please read Government Exhibit No. 3?

A. (Reading):

"Order To Report For Work of National Importance**"The President of the United States****"To Nick Falbo****Home address 327 Hill St., North Belle Vernon, Pa.****Order No. 2510****"Greeting:**

"Having submitted yourself to a Local Board composed of your neighbors and having been classified under the provisions of the Selective Training and Service Act of 1940 as a conscientious objector to both combatant and noncombatant military service (Class IV-E), you have been assigned to work of national importance under civilian direction. You have been assigned to the Civilian Public Service Camp No. 46, located at Big Flats, Chemung County, in the State of New York.

"The Selective Service System will furnish you transportation to the camp, provided you first go to your Local Board named above and obtain the proper instructions and papers.

"You will therefore report to the Local Board named above at 4 P. M. on the 2d day of September, 1942.

"You will be examined at the camp for communicable diseases and you will then be instructed as to your duties.

"Willful failure to report promptly to this Local Board at the hour and on the day named in this notice is a violation of the Selective Training and Service Act of 1940 and may subject you to a fine and imprisonment.

"You must keep this form and take it with you when you report to your Local Board.

**"(Signed) JAMES M. WHITE,
Member of Local Board."**

Q. Was the Board prepared to provide transportation tickets and meal tickets and other incidentals for this man's entrainment, that is, for the defendant's entrainment for a work camp?

A. They were both ready, yes, sir.

Q. And did the defendant, pursuant to that notice, call at the Board's office to pick up the tickets, transportation and meal tickets, and so forth?

A. He did not.

Q. And did he appear at the office of the Board or any other place, as far as you know, pursuant to that notice, for the purpose of entrainment to go to and perform work of national importance?

A. He did not.

Q. Up to this time he has not?

A. He has not.

CROSS EXAMINATION

MR. SCHMIDT:

Q. Mrs. Van Kirk, after you sent out the order to report for work of national importance at civilian training camp, that was followed by a notice to the registrant of suspected delinquency, was it not?

A. Yes, it was.

Q. Have you that in your file, please?

A. You mean the original one, that was sent to him?

Q. Well, you have the copy of that in the file?

A. That is right (producing paper).

(Said paper marked Defendant's Exhibit "A").

Q. And on this notice to registrant of suspected delinquency, will you kindly read the body of the letter, please?

A. "To Nick Falbo. Dear Sir: According to information in possession of this Local Board, you have failed to perform the duty or duties imposed upon you under the Selective Service Law as specified below:

"(1) To present yourself for and submit to registration . . ."

which, of course, was not marked with an "X"; it did not apply to the defendant.

"(2) . . ."

a blank line to specify the actual delinquency that was committed, and we have marked that with an "X", to present himself for work of national importance.

"You are therefore directed to report by mail, telegraph or in person, at your own expense, to this Local Board on or before 5:00 P. M. on the 8th day of September, 1942. Failure to report on or before the day and hour specified is an offense punishable by fine or imprisonment or both."

Q. Now, in response to all of that, did you not on September 8, 1942, receive a letter signed by the registrant, Nick Falbo?

A. We did.

(Paper marked Defendant's Exhibit "B").

Q. Will you kindly read Defendant's Exhibit "B" to the jury?

MR. MASHANK: Just a moment. That is objected to, for the reason it has not been admitted in evidence.

MR. SCHMIDT: I will withdraw that last question.

Q. Now, Government's Exhibit No. 2, and being a part of the questionnaire, will you kindly read to the jury section 1 and 2 of that?

A. Of Section VIII?

Q. That is right.

A. The instructions for this Section VIII are to "Minister, or Student Preparing for the Ministry. INSTRUCTIONS.—Every registrant who is a minister or a student preparing for the ministry shall fill in the statements in this series that apply to him.

"1. (a) I am a minister of religion.

(am) (am not)

(b) I do customarily serve as a minister.

(do) (do not)

"(c) I have been a minister of the Watch Tower

Name of Sect

Bible & Tract Society since 7/1/30"

(or denomination)

(Month, day, year)

since July 1, 1930.

"(d) I have been formally ordained. If

(have) (have not)

so, my ordination was performed on

7/1/30 by the Watch Tower Bible

(Month, day, year)

(Ecclesiastical official perform-

& Tract Society at Belle Vernon, Pa.

(ing the ordination)

(City and State)

"3. I am not a student preparing for the
(am) (am not)
ministry in a theological or divinity school.

"4. I am attending the
(Name of theological or divinity
school) and that space was left blank.

"which was established
(before) (after)

"... also blank—

"September 16, 1939, and is located at
(Place) which is also blank. The last

section (b), under part II, is not filled in.

Q. I ask you what this is (handing paper to witness)?

A. This is DSS Form 47, filled out by Nick Falbo, the special form for conscientious objectors.

(Said paper marked Defendant's Exhibit "C").

Q. Now, when Mr. Falbo sent up his appeal, or appealed his first classification, what did he ask for, according to your records?

A. Well, according to the questionnaire, he signed it originally that he wished to appeal his case—the DSS 2, on the back of that there is a space in which a registrant may specify that he wishes his case to come before the Appeal Board, and the appeal to the Board of Appeals states, "I hereby

appeal to the Board of Appeal from the determination of the Local Board". That was signed January 26, 1942 by Nick Falbo. And there is a space to specify the relationship, which of course is "Self".

Q. Now, subsequent thereto, Defendant's Exhibit "C", with the attached statement and authorization card—which the defendant specifically wishes to be included in the Defendant's Exhibit "C"—and part of Defendant's Exhibit "C" being a special form for conscientious objectors, there is a portion in the middle of the page stricken out. Is this form generally used by conscientious objectors in making application for classification of 4-E?

A. It is the only conscientious objector form that we have.

Q. Well, the resulting classification on application of this kind usually entails 4-E classification, doesn't it?

A. No. They can claim that they are conscientious objectors and go with the inductees as an objector, but not be put into combatant service; and we have a number of our boys who have done that. They go then as 1-AO instead of 4-E.

Q. Now, in this statement appended thereto, to the conscientious objector's form, will you kindly read the last sentence in that statement?

MR. MASHANK: That is objected to, for the reason that that has not been admitted in evidence.

MR. SCHMIDT: We will withdraw that question.

Q. Will you state what this is (handing paper from file to witness)?

A. Well, it is a letter; "To Whom It May Concern"—on stationery of Watch Tower Bible and Tract Society, Incorporated, dated October 7, 1941. "This is to certify that Nick Falbo . . ."

MR. MASHANK: Just a moment. Don't read that.

Q. Just for the purpose of identification, is this letter notarized? For the purpose of identification only.

A. It is subscribed and sworn.

Q. And is there a seal to the letter?

A. There is a seal, but I can't read it.

Q. It doesn't matter. Is there a seal or not?

A. There is a seal of a notary public.

(Papers taken from file of witness marked Defendant's Exhibits "D" to "I", both inclusive).

MR. SCHMIDT: The defendant files these as Exhibits "A" to "I", inclusive, with the expectation of using them further in this case.

HERBERT M. ALLISON, a witness produced on behalf of the Government, having been duly sworn, testified as follows:

DIRECT EXAMINATION

MR. MASHANK:

Q. What is your full name?

A. Herbert M. Allison.

Q. And you live in Pittsburgh?

A. That is correct.

Q. What is your business or occupation?

A. I am a special agent of the Federal Bureau of Investigation.

Q. You are attached to what office?

A. The Pittsburgh Office.

Q. And, as such special agent, were you assigned to investigate the alleged violation of Selective Service and Training Act by Nick Falbo?

A. I conducted a certain part of that investigation.

Q. And during that investigation did you contact Nick Falbo in person?

A. Yes.

Q. State whether or not you talked to him?

A. Yes, I did.

Q. Was there any statement made by the defendant with reference to receiving a notice to report for work of national importance before his Local Board?

A. He admitted that.

Q. He admitted what?

A. Receiving such an order to report.

Q. He said he received an order to report for work of national importance?

A. Yes.

Q. And do you know whether or not he has ever reported for that kind of work?

A. We have been informed by the Local Board—

Q. Well, never mind that. Do you know of your own knowledge?

A. No, I do not.

CROSS EXAMINATION

MR. SCHMIDT:

- Q. When you called upon Mr. Falbo, the defendant, for information, you had prepared a statement for him to sign, I believe, had you not?
- A. Not previously. I prepared a statement during the interview.
- Q. And you asked him to sign it?
- A. Yes.
- Q. And he refused to sign it?
- A. Yes.
- Q. He presented a statement to you on that occasion, in lieu thereof—or not in lieu thereof—did he not, to which he had his signature attached?
- A. That is correct.
- Q. Do you have that statement with you?
- A. I do.
- Q. May I see it?
- A. (Witness hands paper to counsel, and said paper is marked Defendant's Exhibit "J").

MR. SCHMIDT: The defendant files this as an exhibit, Defendant's Exhibit "J", for further consideration in this trial.

- Q. Did you read this statement?
- A. Yes, I read it.

GOVERNMENT RESTS

MR. SCHMIDT: At this time the defendant files a motion to dismiss the action. (Written motion submitted).

THE COURT: Motion denied.

MR. SCHMIDT: To which ruling of the Court the defendant respectfully excepts.

DEFENDANT'S CASE

(Mr. Schmidt opens to the jury on behalf of defendant).

NICK FALBO, the defendant, produced in his own behalf, having been duly sworn, testified as follows:

DIRECT EXAMINATION

MR. SCHMIDT:

- Q. What is your name?
- A. Nick Falbo.
- Q. Where do you reside, Mr. Falbo?
- A. 327 Hill Street, Belle Vernon, Pennsylvania.
- Q. What is your occupation or profession?
- A. A special representative known as a Special Pioneer for the Watch Tower Bible and Tract Society.
- Q. And, as such, are you a regular ordained minister?
- A. I am a regular and duly ordained minister of the Watch Tower Bible and Tract Society.
- Q. And how long have you been a regular or duly ordained minister of the Watch Tower Bible and Tract Society?
- A. I have been a regular Pioneer minister since September 1, 1940, which I have here a letter of ordi-

nation to that effect from the Watch Tower Bible and Tract Society, showing that I am a Pioneer—

MR. MASHANK: Wait just a minute. That is objected to, as reading from some paper not in evidence.

Q. We can't read from that. Now, prior to your regular appointment as a Special Pioneer, were you engaged as a regular minister of religion?

A. I was.

Q. Since what date were you engaged in such activity?

A. I have been engaged as one of Jehovah's witnesses, as a regular minister of religion, since 1930.

Q. As a regular minister of religion, have you since 1930 customarily preached and taught the principles of the Watch Tower Bible and Tract Society?

A. I have.

Q. And as a minister of the group or class of people known as Jehovah's Witnesses?

A. I have.

Q. Now, did you register under the Selective Service System?

A. I did.

Q. What was the date of your registration, do you know?

A. I believe it is October 16th of 1940.

Q. And in due course you sent in your questionnaire. That is, in due course thereafter did you send in your questionnaire?

A. I did.

Q. And in your questionnaire did you ask for a 4-D classification? I ask you to read from your questionnaire "Registrant's Statement Regarding Classification", the first sentence under "Instructions".

A. "Registrant's Statement Regarding Classification. INSTRUCTIONS.—It is optional with registrant whether or not he fills in this statement, and failure to answer shall not constitute a waiver of claim to deferred or other status. The Local Board is charged by law to determine the classification of the registrant on the basis of the facts before it, which should be taken fully into consideration regardless of whether or not this statement is filed in.

"In view of the facts set forth in this Questionnaire it is my opinion that my classification should be Class 4-D".

Q. And that was your first opportunity to make claim for classification?

A. I also made claim for classification—

Q. Please answer the question. Is that the first opportunity that you had the occasion to make claim for classification of 4-D?

A. It was.

Q. Now, what was the next occasion by which you made claim for 4-D classification, as a regular minister of religion?

A. I also filed with the Board a statement which I had entitled my statement requesting a 4-D classification, and as duly and regularly ordained minister of the gospel.

- Q. And in your conscientious objector's form, which is a part of your questionnaire, would you mind reading the last sentence therein?

MR. MASHANK: Wait a minute. That is objected to, for the reason it is not in evidence.

MR. SCHMIDT: We will withdraw that question.

- Q. Is this the conscientious objector's form that you filled out (handing Defendant's Exhibit "C" to witness)?

A. It is.

- Q. Marked Defendant's Exhibit "C". Is the handwriting therein your handwriting?

A. It is.

- Q. And attached thereto, is that statement signed by you?

A. It is.

- Q. And also appended and attached thereto is your authorization card. Does that bear your signature, in your own writing?

A. It does.

MR. SCHMIDT: We offer Defendant's Exhibit "C" in evidence.

MR. MASHANK: If the Court please, I haven't any objection to the admission of this, provided it is limited to the fact that this man claimed to be a conscientious objector, and that claim was respected by the Board and he was placed in Class 4-E. I think it should be limited to that purpose only.

MR SCHMIDT: If the Court please would rather be an injustice to the defendant to limit the conscientious objector's form to anything else than what appears on the face thereof. We offer this in evidence for what it is, which includes the statement and the authorization card therein.

MR. MASHANK: We say that statement and authorization card does not mean anything, because it is not authenticated. We don't know what it is. It is only a printed card, no proof as to who signed it or had any authority to sign it.

THE COURT: As I understand it, you have no objection to this paper as being a claim for the privileges extended to conscientious objectors?

MR. MASHANK: That is right, Your Honor. In other words, he is claiming that he is a conscientious objector. We agree with him, and we have placed him in that classification, and that is all that paper is good for.

THE COURT: Yes, I would think that is the total of its evidential value, for what it purports to be on its face. I do not understand they offer it for any other purpose.

MR. SCHMIDT: If Your Honor please, on its face you will note on the front page there that the applicant has crossed out the portion of the conscientious objector's application which requests him to be placed in the classification as a conscientious objector; but this brings to

the attention of the Appeal Board that he is a minister.

THE COURT: He says, "I claim exemption provided by the Selective Training and Service Act of 1940 for conscientious objectors, because I am conscientiously opposed by reason of my religion, training and belief to the participation of war in any form and the participation in any service which may be under the direction of military authorities." I don't see any claim here that he presents that he is a minister of the gospel.

MR. MASHANK: Nothing in that document.

THE COURT: If it is offered for the purpose of showing that he is a minister of the gospel, it is clearly objectionable, because there is nothing in the paper that makes that claim.

MR. SCHMIDT: We present it for the purpose, to let the instrument speak for what is on the face thereof. There is nothing—

THE COURT: If it is only for the limited purpose, the Government, as I understand it, makes no objection to your offering this for the purpose of showing that he is a conscientious objector.

Q. Furthermore, I will ask you: Can you explain to the Court and jury what this letter or affidavit marked Defendant's Exhibit "D" is?

MR. MASHANK: Wait just a minute. I believe he can identify an exhibit, but he cannot tell us what is in it.

Q. For the means of identification, what is Defendant's Exhibit "D"?

A. It is my certificate of ordination from the Watch Tower Bible and Tract Society, and issued to me as a minister.

MR. SCHMIDT: The defendant offers this in as evidence.

MR. MASHANK: If the Court please, this is objected to, for the reason it has no bearing on any issue in this case. The facts set forth there have already been passed upon by the Board of Appeals and the Local Board, something that this Court cannot disturb.

THE COURT: We sustain the objection.

MR. SCHMIDT: To which an exception is taken.

Q. For the purposes of identification, will you kindly relate what Defendant's Exhibit "I" is?

A. That was a special letter sent by the Watch Tower Bible and Tract Society to Mr. M. W. Acheson, Hearing Officer, United States Attorney.

MR. SCHMIDT: I present this as evidence in the case.

MR. MASHANK: I object to this, for the reason there is nothing in there to prove or disprove any issue in this case; and for the further reason that relates to questions already passed upon by the Board of Appeals and Local Board, and something that this Court cannot disturb.

THE COURT: We sustain the objection.

Q. Can you, in substance, briefly state what Defendant's Exhibit "H" is?—

MR. SCHMIDT: Before entering that, the defendant reserves an exception to the ruling of the Court on the letter addressed by the Watch Tower Bible and Tract Society to Mr. Acheson.

Q. Will you now briefly state what are Defendant's Exhibits "E", "F", "G" and "H"?

A. These are affidavits which have been duly sworn to by members of Jehovah's Witnesses and other members that are not Jehovah's Witnesses but other religious sects, that they have recognized me as one of Jehovah's Witnesses and as a Pioneer Minister for the Watch Tower Bible and Tract Society.

MR. SCHMIDT: And the defendant offers these as evidence.

MR. MASHANK: These are objected to, for the reason they are not the best evidence.

THE COURT: We sustain the objection.

MR. SCHMIDT: To which an exception is respectfully taken.

Q. Could you briefly state what Defendant's Exhibit "B" is?

A. It is an explanation to the Board—

MR. MASHANK: Just a minute. Don't tell us the contents of that paper; just identify it.

- A. (Continuing) It is a statement which I wrote to my Local Board, which I signed, concerning their letter of delinquency.

MR. SCHMIDT: We offer this as evidence.

MR. MASHANK: We object to this, for the reason it is of no evidential value and it refers to matters that have already been passed upon by the hearing officer, the Board of Appeals and the Local Board, and something which this Court cannot pass upon.

THE COURT: We sustain the objection.

MR. SCHMIDT: To which the defendant respectfully excepts.

- Q. And what is this document marked Defendant's Exhibit "A",—without disclosing the contents?
- A. This was a letter which I received from my Local Board, "Notice (to Registrant) of Suspected Delinquency".

MR. MASHANK: No objection.

MR. SCHMIDT: May it be entered by the Court as evidence?

MR. MASHANK. I have no objection to the admission. You can read it to the jury too, if you want to.

- Q. For the purpose of identification, what is Defendant's Exhibit "J", Mr. Falbo?
- A. This is my statement which I handed to the F.B.I. agent, which I spoke to here one time in this building, in reference to my work.

Q. And is that signed—does that paper bear your signature?

A. It has my signature; and I also had this notarized.

MR. SCHMIDT: Defendant offers this as evidence in this case.

MR. MASHANK: This is objected to, for the reason it is a self-serving declaration, also contains conclusions, and also refers to matters that have already been passed upon by the Board of Appeals, the Hearing Officer and also the Local Board, and also a matter which cannot be disturbed by this Court.

THE COURT: We sustain the objection.

Q. Now, Mr. Falbo, when you made application for a hearing at your Local Board, did you go down there?

A. I did.

Q. And for the purpose of the record, would you mind relating just what took place?

MR. MASHANK: This is objected to, as being immaterial in this issue.

THE COURT: We sustain the objection.

MR. SCHMIDT: To which an exception is kindly taken, for the purposes of the record, in order that the reviewing court might determine, the witness will make the following proffer—

MR. MASHANK: You mean an offer?

MR. SCHMIDT: Yes. (At side bar): When the defendant went down to the Board to have his hearing—the Local Board under which he was registered—four members were present, and when he announced that he was one of Jehovah's Witnesses one of the Board members, who is a minister, or purports to be, said, "I do not have any damned use for Jehovah's Witnesses". He attempted to produce evidence by affidavits from the Watch Tower Bible and Tract Society and from his work that he had done, as well as the scriptural authority from the Bible, and the Board stated, "We have no time to listen to this", and he was dismissed.

MR. MASHANK: Objected to, as being immaterial and irrelevant.

THE COURT: We sustain the objection.

MR. SCHMIDT: To which ruling the defendant respectfully excepts.

CROSS EXAMINATION

MR. MASHANK:

Q. Mr. Falbo, are you a graduate of any theological seminary?

A. Christ Jesus and the Apostles weren't, and therefore I am not either.

Q. As I understand it, you have been a minister since 1930?

A. That is right.

Q. That was twelve years ago?

A. Absolutely.

- Q. And you are about twenty-seven now, aren't you?
A. I am.
Q. So you were a minister at the age of fifteen. Is that right?
A. That is right.
-

ANGELO GALUPPO, a witness produced on behalf of the defendant, having been duly sworn, testified as follows:

DIRECT EXAMINATION

MR. SCHMIDT:

- Q. What is your name?
A. Angelo Galuppo.
Q. And where do you reside, Mr. Galuppo?
A. 411 Rostraver Street, Monessen, Pa.
Q. And what official position do you occupy in that vicinity with respect to Jehovah's Witnesses?

MR. MASHANK: Now, just a minute. Your Honor, I ask for an offer at side bar as to what is proposed to be proved by this witness.

MR. SCHMIDT: (At side bar) This witness will testify that he is personally acquainted with the defendant since 1930, and the witness has the means of knowing that the defendant has a reputation in the community where he lives for truth and honesty, that this reputation is good, that the defendant has never been convicted of any crime or misdemeanor; that the reputation is that the defendant is an ordained minister of religion and is en-

gaged in no other occupation, either manual or in any other way; that the defendant is a Special Pioneer appointed by the Watch Tower Bible and Tract Society, and he must put in 175 hours per month in this capacity; the witness is the managing agent of the Watch Tower Bible and Tract Society in the Monessen district, and at various times the defendant has worked under the supervision of the witness, Mr. Galuppo; that the defendant regularly conducts Bible study classes in Monessen and engages in house to house work in the proclamation of the knowledge of the Bible, in much the same manner as did Christ and his early disciples; that the defendant at all times since his registration and before to the extent of approximately a year theretofore has spent his entire time in the ministerial work, with the exception of—that he was so engaged in full-time service as a minister since 1940, with the exception of six months; that on account of his enforced sickness the headquarters of the Selective Service System was so advised.

MR. MASHANK: This is objected to, for the reason the truth and veracity are not at issue in the case; and, second, for the reasons that the matters proposed to be proved by this witness have already been passed upon by the Local Board, the Hearing Officer, and the Appeal Board, and this Court has no authority to disturb the findings of those tribunals; and, third, it will not prove or disprove any issue in this case.

THE COURT: Sustain the objection.

MR. SCHMIDT: To which the defendant kindly reserves an exception.
(Witness withdrawn).

NICK FALBO, the defendant, recalled, testified as follows:

DIRECT EXAMINATION

MR. SCHMIDT:

Q. Mr. Falbo, when you were—or when were you appointed as a Pioneer of the Watch Tower Bible and Tract Society?

A. September 1, 1940 .

Q. What are the requirements to maintain a Pioneer status with respect to the Watch Tower Bible and Tract Society?

MR. MASHANK: That is objected to, as being irrelevant and immaterial to this issue.

THE COURT: We sustain the objection.

MR. SCHMIDT: To which ruling an exception is taken, and the defendant makes the following offer: (At side bar) The requirements of a Pioneer of the Watch Tower Bible and Tract Society are that the individual must put in a least 150 hours per month in preaching the gospel; the Pioneer status is a privileged status under the organization, under which the individual who puts in this number

of hours is granted compensation by means of reduced costs of literature that is distributed among the people, so that he might defray his expenses.

MR. MASHANK: Objected to, as being incompetent, irrelevant and immaterial.

THE COURT: We sustain the objection.

MR. SCHMIDT: To which the defendant kindly takes exception.

Q. Now, subsequent to your appointment in September, 1940; as a general pioneer, were you subsequently appointed to the classification of a Special Pioneer?

MR. MASHANK: Objected to, as being incompetent, irrelevant and immaterial.

THE COURT: We sustain the objection.

MR. SCHMIDT: To which the defendant kindly takes exception, and makes the following offer: "Yes".

MR. MASHANK: Wait a minute. You can't make an offer on something that is objected to and objection is sustained.

MR. SCHMIDT: The defendant excepts to the objection and then makes the following offer: "Yes" — That is the offer, just "Yes" in answer to the question.

Q. And the next question: When did you become a Special Pioneer?

A. April 16, 1942.

THE COURT: I think this whole matter is covered by your first offer under the rules of court.

MR. SCHMIDT: If your Honor please, the first offer covered the matter generally of a Pioneer, but now he has since April 16, 1942, entered a work of the same kind but requiring a greater number of hours.

MR. MASHANK: We still say that is incompetent, irrelevant and immaterial to this issue and does not prove anything that is before this court.

THE COURT: We sustain the objection.

MR. SCHMIDT: To which the defendant takes exception; and if he were to answer he would—

THE COURT: I don't understand your practice in that respect. You make an offer of proof and opposing counsel objects and we sustain the objection; that is all there is to it.

MR. MASHANK: He wants to put on the record something the witness would have answered had the offer been permitted.

THE COURT: No, I don't think that can go into the record. The assumption would be on review of this case you would be able to prove what your offer contains.

Q. Now, Mr. Falbo, prior to your appointment as a Pioneer on September 1, 1940, approximately how much time did you spend in the ministerial work?

MR. MASHANK: That is objected to, for the reason that matter has already been passed upon by proper tribunals.

THE COURT: We sustain the objection.

MR. SCHMIDT: To which the defendant takes an exception and makes the following offer, which can be subject to proof: Prior to his Pioneer appointment on September 1, 1940, the defendant spent not less than thirty hours per month in ministerial work.

MR. MASHANK: Objected to, for the reason that has been passed upon by the proper tribunals, the proper administrative bodies.

THE COURT: We sustain the objection.

MR. SCHMIDT: To which the defendant kindly takes an exception.

Q. Now, can you relate to the Court and jury the period of time that you on account of sickness became incapacitated to do this work since you have been a Pioneer?

MR. MASHANK: If the Court please, that is objected to, for the reason it is immaterial and irrelevant to this issue.

THE COURT: We sustain the objection.

MR. SCHMIDT: To which the defendant kindly takes an exception.

**DEFENDANT RESTS
TESTIMONY CLOSED**

(Note: Counsel for respective parties waive oral arguments to the jury).

ORAL CHARGE OF THE JURY

Schoonmaker, J.

Members of the Jury:

The defendant, Nick Falbo, is on trial before this court and you as the jury on an indictment returned into this court charging him with the violation of the Selective Training and Service Act of 1940. The relative responsibilities of the Court and the jury with reference to this case are these: It is the duty of the Court, or the Judge presiding, to determine what the law is. It is the duty of the jury to take the law as given you by the Court and apply that law to the facts of the case as you find the facts to be. In other words, the Judge is the judge of the law and the jury is the judge of the facts. If there is a dispute in testimony between the witnesses, we of course cannot tell you which witnesses to believe and which to disbelieve.

In this case, as in every criminal case, the defendant comes into court presumed to be innocent, and that presumption of innocence rests with the defendant until you, the jury, become satisfied by the proof that he is guilty of the offense charged against him.

The burden rests upon the Government to satisfy you by proof beyond a reasonable doubt of the guilt of the defendant before you can render him guilty by your verdict. And by "proof beyond a reasonable doubt" we do not mean that all possible doubt must be excluded from the mind. It must be a reasonable and honest doubt arising from the evidence, and just such

a doubt as might occur to any one of you when called upon to consider a serious matter in your own private affairs which would cause you to hesitate in arriving at a particular conclusion.

Now, in this case the defendant is charged with the violation of the Selective Training and Service Act of 1940 in that he failed to obey the orders of Local Draft Board No. 11 at West Newton, Pennsylvania, to report for assignment to work of national importance, having been classified in Class 4-E by the Local Board as a conscientious objector. Now, that classification by the Local Draft Board is binding upon this court and upon the jury. We cannot say whether the Board correctly classified this man. If he has any legal objection to the classification in which he is placed he could have that matter further determined by the court, by reporting to the Local Draft Board for classification, as required by the statute, and then presenting a petition for a writ of habeas corpus to release him from that assignment; and, if that were true, then the court, or the judge, would have to pass upon that question and determine whether or not he was properly classified as a conscientious objector instead of a minister of the gospel, as he claims to be. With that in this particular trial we have nothing to do. The court and the jury must accept as a fact that he was classified in Class 4-E, as a conscientious objector. And then, if you find from the facts that he failed to report—and there is no evidence to the contrary, and even he himself admits it on the witness stand, that he did not report—it would be your duty to find him guilty.

Have counsel on either side request for further or additional charges on any point?

MR. MASHANK: No, Your Honor.

The Court (continuing): Your verdict will be returned in written form, and on that form you will say whether you find the defendant guilty or not guilty.

MR. SCHMIDT (at side bar): The defendant respectfully objects to that portion of the charge made by the Court in substance that if the defendant wanted to test the classification he should have reported and tested the classification by means of habeas corpus proceedings.

The second objection that the defendant takes to the charge is that the classification made by the Local Board or the Board of Appeals, whichever it might have been, is binding upon this court, the defendant holding that such would be the case where there is no prejudice and where a full and fair hearing is accorded to the defendant, but in this case such did not obtain.

The defendant offers the following specific charges to the jury: "If from all the facts in the case you find that the Local Board was prejudicial, unfair, arbitrary and capricious toward the defendant in its classification and its refusal to grant him a hearing, then you will return a verdict for the defendant.

"Second: If from all the facts in the case you find that the defendant at all times dur-

ing the course that he was under the jurisdiction of the Selective Service System has been a regular and/or duly ordained minister of religion, and that the Local Board and Board of Appeals had knowledge of this from the evidence presented, then you will return a verdict for the defendant."

THE COURT: We decline to make the requested charges.

MR. SCHMIDT: To which ruling of the Court the defendant respectfully excepts.

(Jury retires at 3:55 o'clock P. M.).

(And now, Tuesday, December 1, 1942, at 4:05 o'clock P. M., the jury returned to the court room with a verdict of "guilty".)

MR. MASHANK: I move for judgment in this case.

THE COURT: Let the defendant come before the Court. (Defendant comes before the Court). Is there anything to be said by the defendant or in his behalf at this time?

THE DEFENDANT: I would like to say that any person or persons that may cause me or take me away from my God-given commission as a minister of the gospel of Jehovah God and His Kingdom of Christ Jesus, which is the only hope for mankind, are going

to be tried and are being tried and have been tried by Jehovah God right here today, and they will answer to Him for their action.

And, furthermore, you have received all the information from me concerning my ministerial status, that I am an ordained minister of Jehovah God and Christ Jesus, and I have received my ordination from Almighty God, as stated in Isaiah 61: 1 and 2, which reads or quotes: "The spirit of the Lord God is upon me; because the Lord hath anointed me to preach good tidings unto the meek; he hath sent me to bind up the brokenhearted, to proclaim liberty to the captives, and the opening of the prison to them that are bound; 2. To proclaim the acceptable year of the Lord, and the day of vengeance of our God; to comfort all that mourn". Thus my God-given commission, no man has authority to take me away from such commission, which God has given me and which I have consecrated my life to carry out.

Also in Matthew 24:14 it states that "This gospel of the Kingdom shall be preached in all the world for a witness unto all nations; and then shall the end come." Jehovah God has given me that commission, to bring me to this court today, that people may hear of this Kingdom under Christ Jesus, which is the only hope of mankind; and according to the scriptures, soon God will act to destroy the wicked from the face of this earth.

Now, in Acts 20:20, Christ Jesus and also his apostles, which command that ye—that we should follow in His footsteps, and these apostles: "I have taught you publicly and from house to house",—as in

the preaching of the gospel of God's Kingdom, as I have been engaged in since 1930 and up to the present day. If anybody takes me away from that duty, then they are responsible to Almighty God and to His Son, Christ Jesus, His chief King and redeemer of mankind. And soon the Battle of Armageddon, which is to take place, will vindicate the great name of Almighty God, and the purpose of that is to destroy all wickedness from the face of this earth, because Theocracy is the only Kingdom and the only true source which will bring peace and everlasting life to all persons of good will on this earth. My duty was to preach this gospel of God's Kingdom as the facts, as I have presented to the Court here. Man has tried and is taking me away from my God-given commission, which they have no authority to take me away from them. My consecration to Almighty God has been symbolized by one immersion, which is known as baptism, and that is to give up my life, if necessary, to the preaching of the gospel of God and His Kingdom under Christ Jesus, that the people of the earth may know "Jehovah is the Most High over all the earth"; as in the written Psalms 83:18, and the reason stated there, that the reason the earth today is in such condition and the reason why God has permitted the kings of the earth to remain up to this present day,—he says, "That man may know that thou, whose name alone is Jehovah, are the Most High God over all the earth."

Today God has given the people to hear concerning Him and His Kingdom under Christ Jesus. That is why Jehovah's witnesses preach the gospel of God's Kingdom from house to house, that everyone may hear concerning His Kingdom; and, regardless of what

they have against Jehovah's witnesses, may take action against Jehovah's witnesses, it is God that is giving them the privilege and the opportunity to knowing which course they may take in order to receive protection, and that course is they must choose to serve God in Christ Jesus, in Theocracy, which is the only help for mankind, and they will receive protection from Almighty God. Otherwise, if they take another course, such as the nations today are taking, and they are shedding human blood for no just cause, then they are responsible to Almighty God, and they by their colors, such stand as they take against Jehovah's witnesses, are proving to Almighty God, as the Bible states, they are goats, and Christ Jesus today shall separate the nations from the earth, separate the sheep from the goats, and put the sheep on the right side and the goats on the left side, which are going to be destroyed—

THE COURT: Are you joining up with the Japanese?

THE DEFENDANT: Sir?

THE COURT: Are you joining up with the Japanese?

THE DEFENDANT: I decidedly am not.

THE COURT: You seem to be on one side here.

THE DEFENDANT: I absolutely am not; and I am stating that the nations today are against Jehovah God and His Kingdom under Christ Jesus, because if they were not against Jehovah God and His Kingdom they would not take such action against Jehovah's witnesses and try to stop them and do stop them in preaching the gospel of God's Kingdom, as God has commanded them to preach. Isaiah 43:12 states, "ye

are my witnesses, saith the Lord, that I am Jehovah." Now, I am a minister of the gospel of Jehovah God and His Kingdom. I have given the Court all the evidence—affidavits, certificate of ordination—that has been supplied to me from the Watch Tower Bible and Tract Society, showing that I am recognized as a minister and have been recognized as a minister, known as a Pioneer, since 1940, of September 1st, and now at the present time and since April 16, 1942, I have been registered with the Watch Tower Bible and Tract Society as a Special Pioneer. The reason I had been promoted from a Pioneer to a Special Pioneer is because I have chosen to serve Almighty God to a greater capacity and the Society has appointed me to the ranks of Special Pioneer duties, because of my well activities report prior to my time of being appointed as a Special Pioneer. In other words, when I was working as a Pioneer, I had a well report with the Watch Tower Bible and Tract Society; they therefore have promoted me to the ranks of Special Pioneer, which I have been since April 16th and am today, and which the Court today is taking me away from, and they are being responsible to Almighty God for such action.

THE COURT: Well, my conscience is clear along those lines. You evidently have overlooked the portion of the scripture that says to "render unto Caesar the things that are Caesar's and unto God the things that are God's".

THE DEFENDANT: That is right, sir; the scripture does say to "render unto Caesar that which is Caesar's and to render unto God that which is God's". It doesn't say to render unto Caesar that which is God's, and therefore it is up to a Christian to make a separa-

tion line there, to choose for themselves whether they are serving Caesar or Almighty God.

THE COURT: Well, you can't be a member of society without rendering the duties of citizenship. The sentence of the Court is that you be committed to the custody of the Attorney General for confinement in a federal penitentiary for five years, and stand committed until this sentence is completed.

THE DEFENDANT: I would like another word, please.

THE COURT: All right.

THE DEFENDANT: Other ministers of other religious faith; whether Protestant, Jewish or any other religious faith—Catholic or whatever they may be—they have received their proper classification and had no trouble, because they—as they, as the Bible says, they are of the world, and that is today the proof showing how, that they are receiving a mark of the beast, and the Bible says though they receive the mark of the beast they will be protected by the rulers and politicians of the earth; and Jehovah's witnesses, which are not having the mark of the beast, which is Satan, who has religious political allies on this earth, are not receiving consideration because they are Jehovah's witnesses and have taken a course of serving Almighty God and Christ Jesus.

THE COURT: Well, you had better go to some other country then, if you don't like the kind of government we have here.

I HEREBY CERTIFY that the foregoing pages contain a correct transcript of all the evidence taken in the trial in the case of UNITED STATES OF AMERICA vs. NICK FALBO, at No. 11171 Criminal; together with the offers of counsel, the objections thereto, the rulings thereon and the exceptions thereto, and the Charge of the Court and exceptions thereto.

HARRIET COLE THOMAS,
Official Reporter.

Wednesday, December 16, 1942.
Pittsburgh, Pennsylvania.

I, F. P. SCHOONMAKER, Judge of the District Court of the United States for the Western District of Pennsylvania, do hereby certify that the foregoing is a true transcript of all the evidence, offers of counsel, objections thereto, rulings thereon and exceptions thereto, and the Charge of the Court and the exceptions thereto, in the case of UNITED STATES OF AMERICA vs. NICK FALBO, at No. 11171 Criminal; all of which, so certified, is ordered to be filed and to become a part of the record this 2nd day of March, 1943, at Pittsburgh, Pennsylvania.

F. P. SCHOONMAKER,
Trial Judge.

Government's Exhibit No. 1, Registration Card

Govt # 21 12/14/47

SERIAL NUMBER 2352	1. NAME (Print) Nick Folbo		ORDER NUMBER 2510
2. ADDRESS (Print) 327 Hill St. N.B.V. City Pa			
(Number and street or R. F. D. number)			
3. TELEPHONE —	4. AGE IN YEARS 25	5. PLACE OF BIRTH Bogaloy Pa	6. COUNTRY OF CITIZENSHIP 1
(Exchange) (Number) (City) (State)		(Town) (County) (State)	(Country)
7. NAME OF PERSON WHO WILL ALWAYS KNOW YOUR ADDRESS Mrs. Casimira Folbo			
(Mr. Mrs. Miss) (Name) (Address) (City) (State)		8. RELATIONSHIP OF THAT PERSON Mother	
9. ADDRESS OF THAT PERSON 327 Hill St. N.B.V. City Pa			
(Number and street or R. F. D. number) (Town) (County) (State)			
10. EMPLOYER'S NAME —			
11. PLACE OF EMPLOYMENT OR BUSINESS —			
(Number and street or R. F. D. number) (Town) (County) (State)			
I AFFIRM THAT I HAVE VERIFIED ABOVE ANSWERS AND THAT THEY ARE TRUE			

REGISTRATION CARD
D. M. R. FORM 1

(upper)

16-17396

Nick Folbo
Signature

REGISTRAR'S REPORT

DESCRIPTION OF REGISTRANT			
SEX	HEIGHT (Approx.)	WEIGHT (Approx.)	COMPLEXION
White	✓		
Negro			
Oriental			
Indian			
Polish			
HAIR	YES	NO	COMPLEXION
Blue	✓	Black	Yellow
Gray		Red	Light
Brown		Brown	Dark
Black		Black	Freckled
		Gray	Light brown
		Red	Dark brown
		Black	Black

Other obvious physical characteristics that will aid in identification. *Note on Right upper lip*

I certify that my answers are true; that the person registered has read or has had read to him the over answers; that I have witnessed his signature and that all of the answers of which I have knowledge are true, except as follows:

Register for *Fred Stunghele*
177 North Vernon Pa
Date of registration *Oct 16, 1940*

L. B. No. 11 106 SECOND STREET.
STAMP OF LOCAL SOCIETY

(The local society must be a branch of the International Order of the B. O. E. F. and must have been organized after the registration of the registrant.)

WEST NEWTON, (WASHINGTON CO.)
PENNSYLVANIA

Govt's Exhibit No. 2, Selective Service Questionnaire

Govt Ex # 2
12/14/42
HT

SELECTIVE SERVICE QUESTIONNAIRE

Order No. 2510

Date of mailing Aug. 13, 1941

LOCAL BOARD NO. 11	
WESCHELLEND COUNTY	
127 S. Second Street	38
WELT NEWTON, PENNA.	811
(Branch of Local Board)	

Name _____
 Nick (None) Falbo _____
 Address 327 Hill St. _____
 N. Belle Vernon Westa'd Pa.
 (City or town) (County) (State)

NOTICE TO REGISTRANT

You are required by the Selective Training and Service Act of 1940 to fill out this Questionnaire truthfully and to return it to this Local Board on or before the date shown below. Willful failure to do so is punishable by fine and imprisonment.

THIS QUESTIONNAIRE MUST BE
 RETURNED ON OR BEFORE

Aug. 23, 1941

Robert Smith
 Member of Local Board

(The above notice shall be filed in by the Local Board before the Questionnaire is mailed to the registrant.)

INSTRUCTIONS

This Questionnaire is intended to furnish the Local Board with information to enable it to classify you in one of the following Selective Service classes:

Class I includes men who are available for induction into the armed forces of the United States.

Class II includes those whose induction is deferred because of the importance to the Nation of the service they are rendering in their civilian activities.

Class III includes those whose induction is deferred because they have persons dependent upon them.

Class IV includes those whose induction is deferred by law and those unfit for military service.

You will receive notice from your Local Board of your classification.

Oaths required in the Questionnaire may be administered by (1) a member or third clerk of a Local Board or Board of Appeal, member or associate member of an Advisory Board for Registrants, or a Government Appeal Agent, (2) any Postmaster, Notary Public, or any Federal, State, county, or municipal officer or any person authorized to administer oaths. No fee should be charged for this service.

Advisory Boards for Registrants are organized to assist registrants in completing their Questionnaires. No charge will be made for this service. If there is no Advisory Board

available, you must nevertheless complete your Questionnaire.

If the registrant is an inmate of an institution and is unable to complete the Questionnaire, the executive head of the institution shall communicate those facts immediately to the Local Board.

1. Make no alterations in the printed matter in this Questionnaire.

2. All spaces in this Questionnaire that apply to registrants must be filled in with the proper words. Spaces that do not apply must be marked with a "v."

3. If you furnish additional information or affidavits with your Questionnaire, attach the same securely to it.

4. If you are already in the active military or naval service, obtain a certificate to that effect from your commanding officer and attach same to your Questionnaire.

5. After this Questionnaire has been returned, report to your Local Board at once any change of address or any new fact which may affect your classification.

When a notice affecting you is posted at the office of your Local Board, you are bound to perform the duty required even if no notice reaches you by mail.

Any statements in this Questionnaire marked "Confidential" are for information only of the officials duly authorized under the Regulations.

USE INK OR TYPEWRITER IN FILLING OUT THIS FORM

D S S Form 40
 (Rev. 3-15-40)

Govt's Exhibit No. 2, Selective Service Questionnaire

STATEMENTS OF THE REGISTRANT

Series I—IDENTIFICATION

INSTRUCTIONS—Every registrant shall fill in all statements in this series.

1. My name is (print) **NICK** (First name) (Middle name) (Last name) **FALBO**
2. In addition to the name given above, I have also been known by the name or names of **None** (If none, write "None")
3. My residence now is **Belle Vernon** (Town—(City, town, or village)) **327 Hill St.** (Number and street or R. D. route) **Pa.** (State)
4. My telephone number now is **None** (Town—(City, town, or village)) (Exchange) (Number) (If you have no phone, write "None")
5. My Social Security number is **175-61-0512** (If none, write "None") My Railroad Retirement number is **None** (If none, write "None")
6. I was **26** years of age on my last birthday

Series II.—PHYSICAL CONDITION (Confidential)

INSTRUCTIONS—Every registrant shall fill in all statements in this series.

1. To the best of my knowledge, I **have** (There, have not) physical or mental defects or diseases. If so, they are **Liver trouble** (If an defect or disease name)
2. I **am not** an inmate of an institution. If so, its name is _____ (Name of hospital, prison, or other institution) and it is located at _____ (City and State)

Series III.—EDUCATION

INSTRUCTIONS—Every registrant shall fill in all statements in this series.

1. I have completed **8** years of elementary school and **2** years of high school. (Number) (Number)
2. I have had the following schooling other than elementary and high school (if none, write "None")
- | Name of Vocational School, College, or University | Course of Study | Length of Time Attended |
|---|-----------------|-------------------------|
| None | | |

3. I **can** read and write the English language. (Yes, (no))

Series IV.—PRESENT OCCUPATION OR ACTIVITY

INSTRUCTIONS—Every registrant shall fill in No. 1 of this series. Every registrant now at work shall fill in No. 2. Every registrant now unemployed shall answer No. 3. and every registrant who is now a student, whether or not he has had a job shall fill in No. 4.

1. I am now ☐ working at the job described under No. 2 below ☐ unemployed for the reasons and under the circumstances described in my answer to No. 3 below ☐ a student pursuing the course of study described under No. 4 below
2. (a) The job I am now working at is **leave full time for example Construction draftsman, turret lathe operator, stationary engineer, farm laborer, promoting attorney, physics teacher, policeman, marriage counselor, etc.**
- Permit for State Guard to the anti-Race Society**
- (b) I do the following kind of work in my present job (be specific—give a brief statement of your duties): **Monitor Preaching the Gospel of God's Kingdom**
- (c) I have had **11** years experience in the kind of work.
- (d) My average **None** earnings in my present job are **None** (Confidential)

Govt's Exhibit No. 2, Selective Service Questionnaire

Series IV.—PRESENT OCCUPATION OR ACTIVITY.—Continued

(e) In my present job, I am—

- ☐ a regular or permanent employee, working for salary, wages, commission, or other compensation, I have worked years in my present job, and expect to continue indefinitely on it.
- ☐ a temporary or occasional employee; I expect that my present job will end about (Date)
- ☐ an apprentice under a written or oral agreement with my employer, which expires (Date)
- ☐ an independent worker, working on my own account, not hired by anyone, and not hiring any help.
- ☐ working for my father or for the head of my family, but receiving no pay.
- ☐ an employer or proprietor hiring paid workers.

(Do so by tick mark only)

(f) I now employed in national defense work.

(g) My employer is

(Name of organization or proprietor, and business or occupation)

(Address of place of employment—street or R. F. D. route, city, and State)

whose business is

(For example: Farm, airplane engine factory, retail food store, W. P. A.)

(h) Other business or work in which I am now engaged is

(If none, write "None")

INSTRUCTIONS.—If your employer believes that you are a necessary man in a necessary occupation, it is his duty to fill out Form 49 requesting your deferment. You may also attach to this page any further statement by yourself which you think the Local Board should consider in determining your classification. Such statement will then become a part of the Questionnaire.

3. If you are not now working because of some seasonal or temporary interruption, attach to this page a statement (a) explaining what the interruption is, when it began, and when you expect to be able to resume your work; and (b) supplying substantially the same information regarding your last job as is required in Items 2 (a) to 2 (f) above.

4. (a) If a student, I am majoring in

preparing for

(Occupation or profession)

at

(Name and address of school or college)

(b) I expect to complete this training on

(Date)

(c) I

(do so not)

intend to take an examination

tion for license in

(Profession)

Date of examination

INSTRUCTIONS.—A student who believes that he should be placed in Class II because preparing for a necessary occupation should see that the head of his school files with the Local Board the necessary supporting evidence.

Series V.—AGRICULTURAL OCCUPATIONS

INSTRUCTIONS.—Every registrant who works on a farm shall fill in this series, in addition to filling in Series II and VI.

1. I work on or operate a farm as—

- ☐ sole owner of the farm
- ☐ joint owner with
- ☐ hired manager
- ☐ cash tenant or renter
- ☐ standing rent tenant
- ☐ share cropper
- ☐ share tenant
- ☐ wage hand (hired man)
- ☐ unpaid family worker

(Do so by tick mark only)

(Name)

(Address)

My agreement (if any) expires

(Month)

(Day)

(Year)

2. I have been engaged in farm work for

years. 3. I

(do so not)

live on the farm with which I am connected.

4. I

(do so not)

actually and personally responsible for the operation of the farm on which I work.

5. The principal crops and livestock of the farm I operate or work on are

Name of crop

When harvested in Year

Kind of livestock

Number of head now on farm

6. The number of people who work on this farm is

(Number)

of whom

(Number)

are hired hands.

7. Other facts which I consider necessary to present fairly the farming or farm work I have described and my connection with

It is a ground for classification are (if none, write "None")

Govt's Exhibit No. 2, Selective Service Questionnaire

Series VI.—OCCUPATIONAL EXPERIENCE, QUALIFICATIONS, AND PREFERENCES

INSTRUCTIONS.—Every registrant shall fill in items 1, 2, and 3 in this series. Include in item 1 any formal apprenticeship served. Items 4 and 5 are optional and are designed to aid the Reemployment Division in restoring you to civilian employment after completion of military service.

1. I have also worked at the following occupations other than my present job, during the past 5 years. If none, write "None".

Occupation (Give full title, for example, turret-light operator, farmer, etc.)	Kind, or Work Done (Indicate—give a brief statement of your duties)	Years Worked	
		From—	To—
<i>book</i>	<i>writing resumes</i>	1937	1938
		19	19
		19	19

2. My usual occupation, or the occupation for which I am best fitted, is *Electrician*.
3. I *am not* licensed in a trade or profession, if so, I am licensed as _____
(State, and date)
4. I have worked in the following State or States during the past 5 years: _____
(For example, Major post, physical, dental, stationary engineer)
5. I prefer the following kind of work: _____
(Would, would not) consider accepting a job which would require me to move away from my present home.

Series VII.—FAMILY STATUS AND DEPENDENTS (Confidential—except as to names and addresses of claimed dependents)

INSTRUCTIONS.—Every registrant shall fill in the statements numbered 1 and 2 in this series.

1. I am ☒ single. ☐ widower. ☐ divorced. ☐ married; I live with my wife, if not, her address is _____
(Give as the present one) at _____ we were married _____
(Date) (Place) (Date)
2. (a) I have _____ children under 18 years of age. (b) Of these children, _____ live with me in my home.
(Number) (Number)

INSTRUCTIONS.—Every registrant who lives in a family group and contributes to the support of that group shall fill in statement No. 3. "Family group" as used in this statement means two or more persons related by blood, marriage, or adoption, who live together and who pool all or a substantial part of their individual incomes for their joint support. (Such a group may not always include everyone who lives in the same house or eats at the same table. For example, when a registrant and his wife and children share a house with other relatives but do not share the income of those other relatives the family group to be listed here would include only the registrant and his wife and children.)

The information here given is intended to describe only the economic situation of the family group as it now exists and is not intended to suggest that by altering their present domestic arrangements, present dependents of the registrant might obtain support from other persons who are not now supporting them.

3. (a) The following is a list of all members of the family group in which I live (list yourself first):

Name	Sex	Age last birthday	Relationship to me	Does he or she contribute to the support of the family group? (If not, contributing what?)	When last contributing (month and year)
(Name of registrant)	Male		Self	Yes	12 months

(b) I contributed \$_____ during the last 12 months to the support of the above-listed family group.

(c) In addition to the earnings shown in table 3 (a), only the following other income was received by members of the family group during the past 12 months. (State the nature and source of every item of income whether cash or other thing of value. Include income from pensions, rental payments, and contributions from persons outside the group. Give name, address, relationship, and age of each person outside the family group making such

Govt's Exhibit No. 2, Selective Service Questionnaire

SERIES VII—FAMILY STATUS AND DEPENDENTS—Continued

contributions

INSTRUCTIONS: Every registrant who contributes to the support of one or more persons who are not members of the family group listed above shall fill in statement No. 4.

4. (a) The following persons who are not members of the family group listed above depend wholly or partly for support on what I earn by my work in my business, occupation, or employment; they had no other source of income during the past 12 months, except as stated below:

Age and address	Sex	Age last birthday	Relationship to me	How much I contribute to this person's support	Amount contributed by me (past 12 months)	All other income received by this person (past 12 months)
					\$	\$

(b) Of the amounts contributed by me to dependents listed in 4 (a) only \$ _____ contributed to: _____ (Name of person) _____ (If none, write "None") _____ was in pay went for my own board and lodging.

(c) The sources of the "other income" shown in the last column of the table just above were as follows: (Give name of dependent and state whether income was earned or contributed; if contributed give name of dependent, and name and address of person or agency contributing.) _____

(d) The income I earned from my work in my business, occupation, or employment during the past 12 months was \$ _____.

All income from all other sources during the past 12 months was \$ _____.

INSTRUCTIONS: Every registrant who fills in either statement No. 3 or No. 4 shall also fill in the statements numbered 5 through 8 in this series.

5. If any of my dependents (except my wife) are over 18 years of age, the reasons why they are dependent are as follows (list each person by name): _____

6. The following is a description of all property owned by (or held in trust for) either myself or my dependents (do not include clothing, personal effects, household furnishings, or automobile, indicate which of such property is your home): _____

Name of Person	Kind of Property	Value After Depreciation (Estimate)	Net Income From This Property (Past 12 Months) (If none, write "None")
		\$	\$

7. I _____ rent the house or apartment in which I live, if so, the monthly rent now is \$ _____.

8. I have contracted to purchase the following property (if none, write "None"):

Kind of Property	Date of Contract	Balance Now Owed	Monthly Payments
		\$	\$

9. Other facts which I consider necessary to present fairly my own status and that of my dependents as a basis for my proper classification are (if none, write "None") _____

INSTRUCTIONS: With respect to any dependent (other than the registrant's own wife or child) whose support the registrant has assumed, the registrant shall furnish to the Local Board an affidavit of the person for whom dependency is claimed (or from the person's guardian if he is incompetent) explaining when and under what circumstances the registrant assumed such person's support. Copies of Form 40-A for this purpose may be checked from the Local Board. If the dependent lives at a distance, do not delay return of the Questionnaire pending receipt of the affidavit; forward the affidavit as soon as received and it will then become a part of this Questionnaire.

Govt's Exhibit No. 2, Selective Service Questionnaire

Series VIII.—MINISTER, OR STUDENT PREPARING FOR THE MINISTRY

INSTRUCTIONS.—Every registrant who is a minister or a student preparing for the ministry shall fill in the statements in this series that apply to him.

1. (a) I am a minister of religion. (b) I do customarily serve as a minister.
- (c) I have been a minister of the Methodist Episcopal Society since 7/1/1930.
- (d) I have been formally ordained. If so, my ordination was performed on 7/1/1930 by Methodist Episcopal Society at Dallas, Texas, Tex.
2. (a) I am not a student preparing for the ministry in a theological or divinity school.
- (b) I am attending the _____ which was established _____ September 16, 1939, and is located at _____.

Series IX.—CITIZENSHIP

INSTRUCTIONS.—Every registrant shall fill in the statements numbered 1, 2, 3, and 4 in this series.

1. I was born at Bozaly Penn. 4/1/18.
2. I was born on April 1918.
3. My race is: ☒ White; ☐ Negro; ☐ Oriental; ☐ Indian; ☐ Filipino; Other (specify) _____.
4. I am a citizen of the United States.

INSTRUCTIONS.—Every registrant who is not a citizen of the United States shall fill in the statements numbered 5, 6, and 7.

5. I am not a citizen or subject of _____ My Alien Registration No. is _____.
6. My permanent residence has been in the United States since _____.
7. I have filed a declaration of intention to become a citizen of the United States (first papers). Declaration filed at _____ on _____ at _____ o'clock _____.
8. I have filed a petition for naturalization (second papers). Petition filed at _____ on _____ at _____ o'clock _____.

Series X.—CONSCIENTIOUS OBJECTION TO WAR

INSTRUCTIONS.—Only registrants who are conscientiously opposed to combatant or noncombatant military service by reason of their religious training and belief shall fill in this series, and shall obtain from the Local Board a special form (Form 47) on which to give substantiating evidence of conscientious objection. The Local Board after considering all other evidence of conscientious objection will determine whether the registrant shall be placed as a conscientious objector on the basis of the claim made and the information contained in the special form. Put "X" in applicable box or boxes.

1. By reason of religious training and belief, I am conscientiously opposed to participation in war in any form and therefore claim exemption from combatant training and service.
2. I am also, by reason of religious training and belief, conscientiously opposed to participation in noncombatant military service and request, in the event I am found to be conscientiously opposed thereto, that, in lieu of my induction into the land or naval forces of the United States, I be assigned to work of national importance under civilian direction, and I agree to perform such work and conform to all rules and directions made and given with reference thereto by the President of the United States or by such person as he may designate or appoint for such purpose pursuant to such rules and regulations as he may prescribe.

Series XI.—COURT RECORD (Confidential)

INSTRUCTIONS.—Every registrant shall fill in statement No. 1.

1. I am not been convicted of a crime.

INSTRUCTIONS.—Every registrant who has ever been convicted of a crime shall fill in statement No. 2 listing all convictions.

Govt's Exhibit No. 2, Selective Service Questionnaire

2 The kind of my convictions is as follows:

OFFENSE	DATE (Month, Day, Year)	BY (Name and location)	SYSTEM

3 I am now being retained in the custody of a court of criminal jurisdiction, or other civil authority.

Series XII — MILITARY SERVICE (Confidential)

INSTRUCTIONS — Every registrant who now is or has been a member of the armed forces of the United States shall fill in the statements in this series. (Use a separate line for each term of service.)

My military service has been as follows:

ARM OF SERVICE (Army, Navy, National Guard, etc.)	DATE OF ENTRY INTO (Month, Day, Year)	EXPIRATION (Year, No.)	DATE OF DISCHARGE (Month, Day, Year)	TYPE OF DISCHARGE (Honorable, Dishonorable, Bad Conduct, Not Honorable, Unhonorable, or Other—Specify)

Series XIII — PRESENT MEMBERS OF ARMED FORCES, CERTAIN OFFICIALS, ETC.

INSTRUCTIONS — Every registrant who is a member of one or more of the groups named in this series shall check the appropriate item or items, and shall supply any further information called for under the item or items checked.

I am at present:

- 1 ☐ A commissioned officer, warrant officer, pay clerk, or enlisted man of the Regular Army, the Navy, the Marine Corps, the Coast Guard, the Coast and Geodetic Survey, the Public Health Service, the federally recognized active National Guard, the Officers' Reserve Corps, the Regular Army Reserve, the Enlisted Reserve Corps, the Naval Reserve, the Marine Corps Reserve, or the Coast Guard Reserve; my rank or commission is _____ in the _____ (Name of service)
- 2 ☐ A cadet, United States Military Academy; midshipman, United States Naval Academy; cadet, United States Coast Guard Academy; man who has been accepted for admittance (commencing with the academic year next succeeding such acceptance) to the United States Military Academy as cadet, to the United States Naval Academy as midshipman, or to the United States Coast Guard Academy as cadet, and whose acceptance is still in effect; cadet of the advanced course, senior division, Reserve Officers' Training Corps or Naval Reserve Officers' Training Corps; I am _____ (A cadet, midshipman, or enlisted for admittance)
- 3 ☐ The Governor of a State or Territory, a member of a legislative body of the United States or of a State or Territory, a Judge of a court of record of the United States or of a State or Territory or the District of Columbia, my office is _____ (Name of office, academy, etc.)

REGISTRANT'S STATEMENT REGARDING CLASSIFICATION

INSTRUCTIONS — It is optional with registrant whether or not he fills in this statement, and failure to answer shall not constitute a waiver of claim to deferred or other status. The Local Board is charged by law to determine the classification of the registrant on the basis of the facts before it, which should be taken fully into consideration regardless of whether or not this statement is filled in.

In view of the facts set forth in this Questionnaire it is my opinion that my classification should be Class **4-D** (see instruction near 1)

The registrant may write in the space below or attach to this page any statement which he believes should be brought to the attention of the Local Board in determining his classification.

REGISTRANT'S AFFIDAVIT

INSTRUCTIONS — 1 Every registrant shall make the registrant's affidavit. 2 If the registrant cannot read, the questions and his answers thereto shall be read to him by the officer who administers the oath.

State of Penn. COUNTY OF Westmoreland

I, Inds. 7 alio, do solemnly affirm that I am the registrant named and described in the foregoing statements in this Questionnaire, that I have read (or have